MEMORIAL OF THE FRENCH SOCIETIES AGAINST THE CANADIAN COMPRO-MISE-THE BERNE UNION AND THE MANUFACTURING CLAUSE.

Paris, February 5. The French literary and artistic societies have suddenly appeared on the diplomatic stage as the champions of the copyright principle. When the British Colonial Office and the Authors' Society in London associated themselves in an attempt to secure a revision of the Canadian Copyright act of 1889, it was assumed that the European Powers, which had accepted the Berne Convention, would be indifferent to the negotiations conducted at Ottawa. This was a mistake. The French Foreign Office has already entered a strong remonstrance against the proposed compromise. This protest is grounded upon the manufacturing clause, which is regarded as irreconcilable with the vital principle of the Berne Convention.

The French Foreign Office has adopted the argument of the Syndicate of Literary and Artistic Societies for the Protection of Intellectual Property. This is a body with a central organization in which ten powerful associations are represented. It includes La Société des Gens de Lettres, corresponding to the Authors' Society in England; Le Cerele de la Librairie, or the publishers' and bookseliers' association; two music societies, one made up of composers and the other of publishers and sellers; an association of artists, painters, sculptors, architects, engravers and designers; another society of French artists of the highes rank; two architects' unions; La Société Francaise de Photographie, and L'Association des Inventeurs et Artistes Industriels. These ten associations include nearly all the French workers and dealers in literature, art and invention. The managers of the Syndicate are the prominent members of these influential societies, and they hold monthly meetings, at which questions of mutual interest and advantage are discussed.

The proposed Canadian copyright compromise was one of the controversial questions which naturally commanded the attention of the Syndicate. The text of the Ottawa act of 1889 was critically examined, and Hall Caine's account of his negotiations in Canada also was scrutinized. The Syndicate, after deliberate investigation, has prepared a memorial on the subject, which it has submitted to the French Foreign Office. This memorial has been officially adopted by the French Government as its own remonstrance against any compromisof the principles of the Berne Convention. Copies of it have been sent to the Foreign Offices of the various Governments which accepted the general copyright agreement, and also to the copyright headquarters at Berne, and to Continental associations of authors, pub-Hahers and artists.

IN CONFLICT WITH THE CONVENTION.

The Syndicate's memorial points out the direct conflict with the Berne Convention, which will result from the adoption of the marufacturing clause in Canada with the sanction of the Imperial authorities. It contends that it is a mistake to assume that the Berne Union simply stipulates that the owners of a foreign intellectual property are entitled to the same rights as the owners of an English intellectual property, and that if the privileges of the latter are restricted by licenses the former have no ground to complain if their own rights are limited to the same extent. "As a matter of fact," the memorial states, "the vital principle of the Berne Convention is embodied in this double maxim that foreigners enjoy in every country of the Union the rights which are conferred on the natives by their respective laws on the sole reservation that they shall fulfil the conditions and formalities prescribed by the legislation of the country of origin. It follows that, by the proposed Convention, the author or publisher appearing for the first time in France is entitled in Canada at the present time to precisely the same rights as the nativesthat is, the authors and publishers of Toronto and Ottawa (not the natives of London)."

According to this view the author or publisher is entitled to this protection on the sole condition that he fulfils the requirements and formalities prescribed by the legislation of country of origin. The French author or publisher having copyright in his own country now enjoys it in Canada also, without being Consequently, to treat in Canada the violation of the Berne Convention without reference to the question whether the London au thors and publishers would themselves be dealt with like those of Paris. To impose upon French writers and publishers, before granting them the full protection of Dominion law, any formalities other than those prescribed by the French law-that is, the law of the country of origin-would be a violation of the Berne Convention. On this point the Syndicate considers that there can be no possible doubt.

TRYING TO COMPROMISE.

The British Colonial Office has been attempting to bring about a compromise of the Canaof the manufacturing clause and with safeguards in the interest of foreign authors and in the Berne Union. This denunciation of the Convention would be most deplorable, the Syndicate adds, when a conference is about to as-

compromise is based on a false conception of German, of all freedom to dispose of his work in such form and at such time as he may THE INTERNATIONAL CRITICAL COMchoose. He would no longer remain free to publish or not to publish it. He would be comfled to have it printed and even translated in Canada with the shortest possible delay, and without having any power to choose his own would be compelled to allow the work to be published without his own co-operation, and with no guaranty that the text would not be ampered with. Under this compromise all English. French or other copyright works likely to prove remunerative would be reproduced in Canada without the control of the writers, and original editions would be excluded. The only productions likely to escape confiscation by the Canadians would be those having only a restricted or doubtful sale. The arbitrary allotment of a royalty to an author under the proposed measure would be an inadequate compensation for the disadvantages of the system.

THE ESSENTIAL POINT. Many technical questions, such as the time limit, are discussed in the memorial, but the essential point on which stress is laid is the fact that Canada cannot adopt this compromise without violating the Berne Convention, which England has accepted. "As a matter of fact,"

COPYRIGHT CONTROVERSY. publisher the selling price of the book and the share to be allotted respectively to the author and to the publisher." The Berne idea, according to the French view, would be fatally compromised by the manufacturing and licensing clauses, and, consequently, the proposed Canadian bill ought to be strenuously opposed by the Continental countries in the Union.

It is evident from this summary of the French memorial that the Canadian copyright law, in its original or amended form, is something more than an imperial question. It is regarded by the most influential authors and publishers in Paris most influential authors and publishers in Faris
as an international issue, which involves the
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50, 82, 34 East 57th Street sacrifice of the copyright principle. M. Belin. the president of the Syndicate, takes the ground energetic action is needed in order to arouse international feeling and to make the Canadians understand that they cannot possibly remain in the Berne Union, if they want to impose such terms on foreigners. He has to impose such terms on foreigners. He has Canadians understand that they cannot posordered the memorial to be sent by the Berne Bureau to all the countries now represented in the Union, and also to influential members of

Continental associations. M. Fouret, of the great publishing house of Messrs. Hachette & Co., on the Boulevard Saint-Germain, has given me a clear account of the influence of the Syndicate and of the motives which have determined its action. The ten societies represent the intellectual and artistic workers, and the publishing interests of France. Their power is very great. No Government could afford to neglect their example and advice. The present Ministry has promptly acted upon the Syndicate's copyright remonstrance and brought the matter before the attention of the English Government. It will probably be supported speedily by Germany and other countries. Expensive French works could not be reproduced in Canada under any conditions, but there would be a great sale for popular novels in cheap editions, especially if these could be carried across the border into the United States. The Canadian market for translated French works is not large enough to merit serious consideration; but the principle of the Berne Convention, if compromised once, will be undermined. That is the real motive, will be undermined. That is the real motive, according to M. Fouret, for the intervention of the French societies in the Canadian controversy. They consider it necessary to defend the copyright principle against a dangerous assault. If the Berne agreement can be relaxed in favor of Canada, it can be relaxed in favor of other countries, and its efficiency fatally impaired.

The leaders of the French societies express the hope that Canadian authors and publishers will perceive how hostile the licensing and manufacturing clauses are to what are considered here indisputable principles of copyright law, and "in what a position of isolation they would place themselves by such a retrograde piece of legislation, creating for their own benefit a legal power of dispossession in respect to foreign rights and enabling them to deprive foreigners of their property at any time they may think it worth while to do so." The Canadian legislators are not likely to take the French view of the case. They consider it their right to be on terms of equality with the United States, in relation to copyright. If the Americans protect their printers by making simultaneous publication of a foreign work in the United States an indispensable condition of copyright, then the Canadians must also have the manufacturing clause. The British Colonial Office has recognized the Canadian right to legislate on this subject, and the Authors' Society, of London, has proposed a compromise in Ottawa through one of its most conspicuous The Canadians are not likely to withdraw from their position in consequence of this French demonstration on behalf of the Berne Convention.

CANADIAN AND FRENCH VIEWS.

At the same time it must be frankly conceded that the French argument is unanswerable, and that Canada, if it adopts the licensing and manufacturing clauses, cannot remain in the Berne Union. It must withdraw from that Union, and remain outside like the United States, so long as it withholds from French, German and other Continental authors and depublishers absolute reciprocity. The effect of the French protest, especially if it be supported by Germany and other countries, will be to FAMBURG-AMERICAN force Canada to retire from the Berne Union. force Canada to retire from the Berne Union. the Berne Copyright Convention, stipulated that the right of withdrawing from the Union after a year's notice. Consequently Canada is at liberty to retire from the Union and to adopt the qualified system of copyright prevailing in the United States. Great Britain accepted the Berne Convention with the understanding that it would use its good offices in inducing the Colonies also to enter the Union. The British Government cannot force Canada to remain permanently in that Union. Canada can withdraw from it after a year's notice; and, apparently, the French societies will move for expulsion, if the manufacturing clause be adopted by any member of the Copyright Union.

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